

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

KAREN KIRKPATRICK,)	
)	
Plaintiff)	
v.)	Case No. CIV-09-92-C
)	
PFIZER, INC.,)	
)	
Defendant)	

MEMORANDUM OPINION AND ORDER

Plaintiff has retained Mr. Steve Regier as an expert in this case and tenders him to offer expert testimony regarding the extent of her damages. According to Plaintiff, Mr. Regier will offer testimony, based on his education, training, and experience as an accountant, about the economic loss she suffered due to Defendant's allegedly discriminatory termination. Defendant has filed the present motion seeking to prevent Mr. Regier from testifying at the trial of this matter. According to Defendant, Mr. Regier makes improper and unsupported assumptions.

The Court, having reviewed the parties' briefs and attachments, finds that Mr. Regier's testimony may be presented to the jury. The shortcomings alleged by Defendant are matters that go to the weight of the testimony and therefore are matters for cross-examination, not exclusion. See Compton v. Subaru of Am., Inc., 82 F.3d 1513, 1518 (10th Cir. 1996) ("Therefore, 'as long as a logical basis exists for an expert's opinion . . . the weaknesses in the underpinnings of the opinion[] go to the weight and not the admissibility of the testimony.'") (quoting Jones v. Otis Elevator Co., 861 F.2d 655, 663 (11th Cir. 1988) (overruled on other grounds by Kumho Tire Co. v. Carmichael, 526 U.S. 137, 147 (1999)));

see also Miller v. Mullin, 354 F.3d 1288, 1298 (10th Cir. 2004). Indeed, for each of the issues that Defendant complains evince an error in Mr. Regier's opinion, Plaintiff has offered evidence demonstrating the correctness of the assumption. Thus, the matters are for resolution by the jury, not the Court, and Mr. Regier will be permitted to testify.

For the reasons set forth herein, Defendant's Motion in Limine to Exclude the Report and Testimony of Steven Regier (Dkt. No. 175) is DENIED.

IT IS SO ORDERED this 1st day of May, 2009.


ROBIN J. CAUTHRON
United States District Judge